



NASA Procedural Requirements

COMPLIANCE IS MANDATORY

NPR 3792.1B
Effective Date: July 29, 2006
Expiration Date: July 29,
2011

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Request Notification of Change (NASA Only)

Subject: Plan for a Drug-Free Workplace (REVALIDATED w/Change 1 12/06/06)

Responsible Office: Office of Human Capital Management

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Chapter 5. Finding of Illegal Drug Use and Disciplinary Consequences

5.1 Determination

5.1.1 An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to:

- a. Direct observation.
- b. Evidence obtained from an arrest or criminal conviction.
- c. A verified nonnegative test result.
- d. An employee's voluntary admission.

5.2 Mandatory Administrative Actions

5.2.1 NASA shall initiate disciplinary action against any employee found to use illegal drugs.

5.2.2 NASA shall refer an employee, found to use illegal drugs, to the EAP.

5.2.3 If an employee found to use illegal drugs occupies a TDP, NASA management must immediately remove the employee from that position.

5.2.4 At the discretion of the Center Director (or designee) and as part of an EAP, an employee may be permitted to return to duty in a TDP if the return would not endanger public health or safety or national security.

5.3 Range of Consequences

5.3.1 The severity of the disciplinary action taken against an employee found to be using illegal drugs shall depend on the circumstances of each case, shall be consistent with

EO 12564, and shall include the full range of disciplinary actions, including removal. NASA shall initiate disciplinary action against any employee found to use illegal drugs but shall not discipline an employee who voluntarily admits to illegal drug use, in accordance with paragraph 5.4.

5.3.2 Such disciplinary action, consistent with any governing collective-bargaining agreement, the Civil Service Reform Act, other statutes, NASA orders, and regulations, may include any of the following measures, but some disciplinary action must be initiated:

- a. Reprimanding the employee in writing.
- b. Placing the employee in an enforced leave status.
- c. Suspending the employee for 14 days or less.

- d. Suspending the employee for 15 days or more.
- e. Suspending the employee until the employee successfully completes the EAP or until NASA determines that action other than suspension is more appropriate.
- f. Reducing the employee in pay or grade.
- g. Removing the employee from Federal service.

5.4 Voluntary Referral (Safe Harbor)

5.4.1 Under EO 12564, NASA is required to initiate action to discipline any employee found to use illegal drugs in every circumstance except when an employee:

- a. Voluntarily admits his/her drug use to management.
- b. Completes counseling or an EAP.
- c. Thereafter refrains from drug use.

5.4.2 A fundamental purpose of NASA's Drug-Free Workplace Program is to assist an employee who is seeking treatment for drug use. Because EO 12564 permits an agency to create a safe harbor, NASA has decided to provide one and shall not initiate disciplinary action for illegal drug use against an employee who meets all three of the following conditions:

- a. Voluntarily identifies himself/herself to management as a user of illegal drugs, prior to being identified through other means.
- b. Successfully completes counseling and rehabilitation through an EAP, including follow-up testing.
- c. Refrains from using illegal drugs after successful completion of counseling and rehabilitation.

5.4.3 This self-referral option allows any employee to step forward and identify himself/herself as an illegal drug user for the purpose of entering a drug-treatment program under the EAP.

5.4.4 The key to this provision's rehabilitative effectiveness is an employee's willingness to overcome denial by voluntarily admitting his/her drug-use problem to himself/herself and to management and others. Therefore, this provision shall not be available to an employee who is asked to provide a urine sample under random, reasonable-suspicion, post-accident or unsafe practice testing, and who thereafter (i.e., just before or after the sample is collected) admits his/her drug use.

5.5 Initiation of Mandatory Removal from Federal Service

5.5.1 NASA must initiate action to remove an employee for any of the following: a. Refusing to obtain counseling and rehabilitation through an EAP, as required by EO 12564, after having been found to use illegal drugs.

- b. Having been found to have used illegal drugs following a first finding of illegal drug use.
- c. Refusing to be tested when so required.
- d. Failing to appear for testing without justification that is acceptable to NASA management.

5.5.2 The Center's Human Resources Office must be consulted before any disciplinary action is initiated (see paragraph 5.3).

5.6 Refusal to Take a Drug Test

5.6.1 An employee who refuses to be tested when required shall be subject to the full range of disciplinary action, including removal (see paragraph 5.3).

5.6.2 Attempts to alter, substitute, or tamper with the collection of the specimen shall be deemed a refusal to take the drug test.

5.7 Failure to Appear for Testing

5.7.1 Failure to appear for testing without justification that is acceptable to NASA management shall be considered as refusal to participate in testing. This shall subject:

- a. An employee to the full range of disciplinary actions, including removal (see paragraph 5.3).
- b. An applicant to the cancellation of an offer of employment.

5.7.2 If an individual fails to appear at the collection site at the assigned time, the collector shall contact the DPC who shall, in turn, contact the appropriate management official in order to initiate appropriate action.

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